

BEFORE THE  
DENTAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA

In the Matter of the Petition to Terminate  
Probation Against:

WILLIAM GARY PRITCHETT

Dental Certificate No. 20660,

Petitioner.

Agency No. AGN 1996-61

OAH No. L2005090733

DECISION

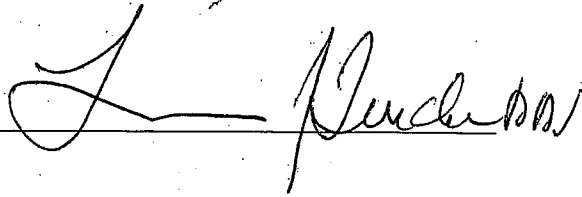
The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the Dental Board of California as its Decision in the above-entitled matter.

This Decision shall become effective NOVEMBER 23, 2006.

IT IS SO ORDERED OCTOBER 23, 2006.

BOARD OF DENTAL EXAMINERS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



rfm

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In the Matter of the Petition to Terminate  
Probation of:

WILLIAM GARY PRITCHETT

Dental Certificate No. 20660

Petitioner.

Case No. AGN 1996-61

OAH No. L2005090733

**PROPOSED DECISION  
AFTER REMAND**

**PROCEDURAL HISTORY**

This matter was originally heard by Humberto Flores, Administrative Law Judge of the Office of Administrative Hearings, on November 2, 2005, in Bakersfield, California. The Administrative Law Judge issued a Proposed Decision December 6, 2005. On January 26, 2006, the Dental Board of California adopted the Proposed Decision.

On February 23, 2006, Deputy Attorney General Nicholas Sanchez filed a Motion for Reconsideration. On March 10, 2006, the Board issued an Order Granting Reconsideration. On April 11, 2006, the Board vacated the Decision and remanded the matter to the Administrative Law Judge to take additional evidence and argument.

The matter on remand was heard by Administrative Law Judge Flores on July 12, 2006, in Bakersfield, California.

Nicholas A. Sanchez, Deputy Attorney General, represented Department of Justice, State of California.

Petitioner was present during the hearing and was represented by Michael J. Khouri, Attorney at Law.

Testimony and documentary evidence was received and the matter was submitted for decision. Factual Findings 1 through 8 below were set forth in the original proposed decision. No evidence was presented to cause the undersigned to change any of these Factual Findings and they are set forth below in their entirety.

## FACTUAL FINDINGS

1. The Dental Board issued Dental Certificate No. 20660 to respondent on January 1, 1969.

2. On February 5, 1997, the Executive Officer of the Dental Board made and filed the original Accusation against petitioner. Shortly thereafter, the Executive Officer of the Board filed a First Amended Accusation. On January 25, 1999, the Executive Officer filed a Second Amended Accusation against petitioner. The Accusation and Amended Accusations alleged acts of gross negligence and incompetence in connection with the care and treatment of five patients. Most of the alleged conduct occurred from 1991 through 1997, however, the alleged acts with respect to one the patients occurred in the late 1980s.

3. In a Settlement and Decision effective May 7, 1999, petitioner admitted that allegations set forth in the Accusation and Amended Accusation and the Board revoked petitioner's dental license. The revocation was stayed and petitioner was placed on probation for seven years on certain conditions which included a six-month suspension, closure of his dental practice, completion of a remedial education plan, and a plan for supervision of his practice of dentistry. Petitioner has thus far complied with all terms and conditions of his probation.

4. Shortly after being placed on probation petitioner quit the practice of dentistry and concentrated on selling his dental practice in Salinas, California. It took petitioner approximately six months to finalize the sale of his practice. After selling his practice, petitioner left California and moved to Georgia to care for his mother. Petitioner's probation tolled while he was living in Georgia.

5. Petitioner returned to California in the summer of 2002. Upon his return, petitioner enrolled in a remedial education program at the University of California, at San Francisco. This rather intensive program was approved by the Board in August 2002, and satisfied the remedial education and ethics requirements of petitioner's probation. The program, which petitioner completed on October 18, 2002, focused on oral diagnosis and treatment planning, ethics, endodontics and orthodontics. Petitioner also presented evidence that he completed an extensive home study course in 2002. Finally, it is noted that petitioner has continued to take and complete numerous other continuing education courses to the present time.

6. Petitioner resumed the practice of dentistry in May 2003, in Lincoln, California. His first practice monitor, Edward Weiss, DDS, performed an evaluation in August 2003. Dr. Weiss reviewed petitioner's patient files and found that some of the treatment notes were "sketchy," but adequate to explain the treatment rendered. Dr. Weiss then gave petitioner a list of suggestions to improve his chart notes and other entries. In October 2003, Dr. Weiss performed another evaluation of patient charts. Dr. Weiss concluded that there was no indication of excessive or unnecessary treatment.

7. In the summer of 2004, respondent moved to Bakersfield, California, where Neil Millikin, DDS, agreed to hire petitioner and to monitor his practice of dentistry. Dr. Millikin owns Apollonia Dental Center (ADC) located in Bakersfield. Dr. Millikin closely supervised petitioner for the past year.<sup>1</sup> Dr. Millikin testified that petitioner has demonstrated that he is a competent, caring and dedicated dentist. In fact, Dr. Millikin stated that petitioner is one of the finest dentists he has worked with, both in a technical sense and in his ability to relate to patients. This is also evidenced by letters from colleagues and positive statements from patients made to Dr. Millikin and to other staff at ADC concerning the care and treatment provided by petitioner.

8. Petitioner also provides dental services one day a week at 7 Day Dental, located in Anaheim, California. Petitioner is highly regarded by his colleagues who also work at 7 Day Dental.

#### NEW CONSUMER COMPLAINT

9. In January 2006, the Board received a consumer complaint alleging that Petitioner had an outstanding default civil judgment in the Superior Court of California, County of San Benito. The amount of judgment was \$14,000.00. The default judgment was based on a complaint filed in 2001, alleging negligence in performing root canals, lack of informed consent, and failure to inform the patient that the root canal procedures performed by petitioner were below the standard of care.

10. Petitioner failed to disclose this default judgment on his Petition to Terminate Probation.

11. Petitioner was living in Georgia when the lawsuit was filed. A default was originally entered on September 12, 2001. Thereafter, petitioner hired attorney James J. Cook and sent Mr. Cook \$6,000.00 as a retainer, with unearned fees to go toward payment on any settlement. Mr. Cook's office is located in Monterey, California. Petitioner remained in Georgia throughout the legal proceedings. On November 27, 2001, the default was set aside. On February 13, 2002, petitioner, through attorney Cook, entered into a settlement with the patient and agreed to a "Stipulation for Entry of Judgment" wherein petitioner agreed that a judgment would be entered if petitioner failed to satisfy the settlement. Petitioner did not satisfy the settlement and a default judgment was entered on August 20, 2002.

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<sup>1</sup> Petitioner works at APC four days a week, while Dr. Millikin is there every day. Over the past year, Dr. Millikin has observed all aspects of petitioner's practice of dentistry, including examinations, treatment plans, charting and record keeping, and interaction with patients and other professionals in the office.

13. Petitioner asserted that he put this lawsuit behind him, had forgotten about it, and did not intend to deceive the Board when he failed to disclose the default judgment. The undersigned finds this assertion persuasive based on the following:

- (a) Petitioner had been caring for his elderly mother throughout the proceedings in the Superior Court. To physically care for an elderly parent is a stressful all-consuming job.
- (b) Petitioner relied on his attorney to inform him of any significant developments in civil action set forth above.<sup>2</sup> Mr. Cook received notice of the hearing on the request for entry of judgment but he did not appear in court nor did he inform petitioner of this important development of the case. The default judgment was served on Mr. Cook, but he did not inform petitioner. In fact, petitioner never heard from Mr. Cook after petitioner signed the Settlement and Release.
- (c) Petitioner paid Mr. Cook a substantial amount of money to set aside the original default judgment, and to negotiate a settlement with plaintiff's counsel. To pay this money and simply allow the negotiated settlement to become a default judgment makes no sense unless there were other factors involved. In this case, these other factors include the substantial effort and stress of caring for an elderly and ill parent, and the failure of Mr. Cook to communicate with petitioner after the settlement of the civil case.
- (d) In observing petitioner during his testimony, including his demeanor and comportment while testifying, the undersigned found petitioner to be naïve and unsure of his understanding and knowledge of legal matters in general, and in particular the proceedings relating to the civil default judgment.
- (e) All of the above facts lead one to conclude that petitioner, at the time he completed the petition for termination of probation (April 18, 2005), petitioner did not intend to deceive the Board when he failed to disclose the civil default judgment set forth in Factual Finding 9.

14. Once petitioner was informed of the outstanding default judgment against him, he paid the judgment in full, including interest.

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<sup>2</sup> Once Mr. Cook became petitioner's attorney of record, Mr. Cook received all notices, documents and court filings relating to the case.

## DISCUSSION

15. As noted in the original proposed decision, petitioner completed extensive remedial and continuing education to address areas of concern. Since returning to the practice of dentistry, petitioner has provided excellent care to his patients. He has worked four days a week with his monitor and supervisor, who testified positively regarding petitioner's skills as a dentist and the care and treatment he provides to patients. He is highly regarded by his colleagues and has improved in other areas such as record keeping and communicating with patients. In sum, petitioner has addressed all of the areas of concern that relate to public protection. Finally, it is noted that petitioner's conduct that resulted in discipline and the default judgment occurred in the 1990s.

16. Deputy Attorney General Nicholas Sanchez properly sought reconsideration of the Decision based on newly obtained evidence of the default judgment and of petitioner's failure to disclose this fact on his Petition to Terminate Probation. However, petitioner presented significant evidence of mitigation. Based on all of the facts and circumstances surrounding the newly discovered evidence, the original order of the Decision should be reinstated.

## LEGAL CONCLUSIONS


1. Grounds exist, after reconsideration under Government Code section 11521, to reinstate the order terminating probation based on Factual Findings 1 through 14, and the Discussion section of this proposed decision.

2. Grounds exist to terminate the probation previously imposed on petitioner's dental certificate under Business and Professions Code Section 1686, based on Factual Findings 1 through 14, and the Discussion section of this proposed decision.

## ORDER

The Decision of the Dental Board of California issued on January 26, 2006, granting the Petition to Terminate Probation is reinstated. The probation previously imposed on Petitioner William Gary Pritchett in Case No. AGN 1996-61 is hereby terminated.

Dated: August 7, 2006

  
HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings